

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAVIER NUNEZ,

Plaintiff,

-against-

MARK SILBER; ELI SILBER; NICOLE
FRASER; GUTMAN, MINTE, BAKER &
SONNENFELDT, LLC,

Defendants.

23-CV-8462 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is appearing *pro se* and *in forma pauperis* (“IFP”), brings this action under the Court’s diversity of citizenship jurisdiction. Plaintiff has previously submitted to this court a similar complaint alleging that Defendants unlawfully evicted him and his father from a Manhattan apartment. That case is presently pending before the Court under docket number 23-CV-625. As this complaint raises the same claims, no useful purpose would be served by litigating this duplicate lawsuit. Therefore, this complaint is dismissed without prejudice to the case pending under 23-CV-0625 (LTS).¹

CONCLUSION

Petitioner’s filing is dismissed as duplicative of 1:23-CV-0625 (LTS).

¹ Plaintiff has filed other complaints about these events. *See Nunez v. Silber*, ECF 1:18-CV-0892, 2 (CM) (S.D.N.Y. Apr. 9, 2018) (dismissing complaint for lack of subject matter jurisdiction and failure to state a claim), No. 18-1116 (2d Cir. July 16, 2018) (dismissing appeal because it “lacks an arguable basis either in law or in fact”); *Nunez v. Silber*, ECF 1:18-CV-6821, 2 (LLS) (S.D.N.Y. Oct. 30, 2018) (dismissing complaint for lack of subject matter jurisdiction and failure to state a claim), No. 18-3385 (2d Cir. Apr. 2, 2019) (dismissing appeal because it “lacks an arguable basis either in law or in fact”); *Nunez v. Silber*, ECF 1:22-CV-8416, 6 (LTS) (S.D.N.Y. Feb. 22, 2023) (dismissing complaint for lack of subject matter jurisdiction), *appeal pending* (2d Cir.).

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith and therefore IFP status is denied for the purpose of an appeal.

See Coppedge v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk of Court is directed to enter judgment in this case.

SO ORDERED.

Dated: October 16, 2023
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge